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PART V

Bills introduced in the Council of State and Legislative Assembly, Reports of Select Committees presented to the Council and Assembly and Bills published under Rule 18 of the Indian Legislative Rules.

GOVERNMENT OF INDIA

LEGISLATIVE DEPARTMENT

The following Bill was introduced in the Council of State on the 3rd April, 1947:—

C. or S. BILL No. 1 OF 1947

A Bill to nullify forcible conversions and marriages

WHEREAS forcible conversion is not recognized under any civilized system of jurisprudence and whereas there has been forcible mass conversion during the recent disturbance in Noakhali and other districts of Bengal in the year 1946 and whereas it is necessary to remove doubts as to the personal law to be applied to persons so converted and to declare the invalidity of marriages contracted or solemnized after such conversion as also to make provision for the children that may be born of such invalid marriages;

It is hereby enacted as follows:—

1. This Act may be called the Forcible Conversion and Marriages Nullification Act, 1947.

2. It shall come into force at once.

Commencement.

3. It is hereby declared that the conversion of persons professing one faith to another by force, viz., major threat of injury to the person or property, or inducement of any kind, e.g., preservation of property or safety of life and limb at a time of civil or other commotion is null and void, and shall be deemed to have been null and void whenever a question relating thereto falls to be determined by a Court of Law.

4. It is hereby further declared that marriages solemnised or gone through or registered between any such converted Hindu male or female who was converted after the 15th August, 1946 as a Mussalman, is null and void, and that the Mussalman spouse shall have no rights over the person or property of the converted

Hindu spouse either during his or her lifetime or after death. It is further declared that the Hindu spouse shall be at liberty to marry according to the tenets of his or her own law.

5. The personal law of the person so converted by force, threat or inducement shall continue to apply and shall be deemed always to have applied to him and his property.

6. (a) The custody of persons so converted by people professing the faith into which the conversion is alleged to have been made shall be deemed to be unlawful and punishable according to law.

(b) No punishment or penalty shall however be incurred by a person if within 7 days of the passing of this Act the said person makes over the alleged convert to his or her relatives or to the nearest Court.

(c) Notwithstanding anything in the Indian Penal Code every such person having custody of a Hindu shall be deemed to have committed the offence of kidnapping under the Indian Penal Code, sections 359—362, and shall be punishable under sections 363-369. In such cases the age of the person kidnapped or his or her consent shall not be material or a relevant fact.

7. The children born of the womb of such Hindu women shall be deemed to be Hindus and governed by the Hindu Law and the Mussalman father or other relations shall have no rights over their person or property.

STATEMENT OF OBJECTS AND REASONS

There have been forcible mass conversions, abductions and marriages in Noakhali and Tippera Districts in Bengal. The mentality behind these barbarities is still at work and it is therefore necessary to make a declaration of the legal position. This Bill is introduced with that object in view.

S. K. ROY CHOWDHURY.

NEW DELHI ;

The 20th February, 1947.

G. H. SPENCE,

Secy. to the Govt. of India.

GOVERNMENT OF INDIA

LEGISLATIVE ASSEMBLY DEPARTMENT

The following Report of the Select Committee on the Bill to make provision for assistance to the rubber plantation industry by regulating export from and import into British India of rubber and the sale of rubber therein and by other means, was presented to the Legislative Assembly on the 1st April, 1947:—

We, the undersigned, members of the Select Committee to which the Bill make provision for assistance to the rubber plantation industry by regulating export from and import into British India of rubber and the sale of rubber therein and b

other means was referred, have considered the Bill and have now the honour to submit this our Report, with the Bill as amended by us annexed thereto.

The long title, preamble and clause 2 have been revised to indicate more precisely the scope of the Bill.

Clause 3.—I view of the changes we have made in the substantive provisions of the Bill, the definitions of "approved" and "licensed" originally contained in sub-clause (a) of this clause will no longer be required and that sub-clause has accordingly been omitted. We have inserted the usual definitions of "export" and "import", and added to the definition of "rubber" in order to make it clear that all forms of raw rubber are covered by that expression.

Clause 4, sub-clause (3).—In addition to formal changes we have provided in item (i) for the nomination of two members representing manufacturers to be nominated respectively by the two principal associations in India, and one more member to be nominated by the Central Government to represent other manufacturers.

Clause 5.—Sub-clause (2) which is new contains the usual and necessary provision for filling casual vacancies.

Clause 7.—While the Board is suitably constituted for its main function of promoting the development of rubber production in the country, we consider that it is for that very reason not the ideal body to advise the Central Government regarding the fixation of price levels under clause 13 (originally clause 15). It is natural that rubber producing interests should have a much larger representation on the Board than the manufacturers of rubber articles, but in the important matter of recommending to Government the maximum or minimum prices of rubber in the Indian market, the two interests should in our opinion have an equal voice. We have therefore proposed the constitution of a Price Advisory Committee of the Board with two members elected by the Board to represent rubber producing interests and two to represent manufacturing interests, and three independent Government nominees.

Clause 8.—Clauses 8 and 9 of the Bill as introduced have been combined and revised, for the most part formally. We have, however, omitted the provision requiring the Board to approve estates, approve dealers and license dealers for the purposes of the Act, and to take such steps as may be necessary for the efficient marketing of rubber. The Bill as introduced provides for a multiplicity of permits licences and transit certificates which appears to us to be unduly cumbersome and restrictive. We have therefore decided to omit all provisions relating to the approving and licensing of estates and dealers, the issue of purchase permits to manufacturers, and the grant of transit certificates, and in lieu thereof insert a single provision enabling the Board to control sale transactions by open general licences and special licences.

From clause 9, some re-numbering and re-arrangement of clauses have been found necessary. References to the clauses of the Bill as introduced are given in brackets.

Clause 9 (old clauses 33 and 14).—In sub-clause (1) express provision is made for the dissolution of the Indian Rubber Production Board which was functioning during the war period. Sub-clause (2) of old clause 14 has been slightly expanded.

Clause 10.—We think that the work of registering estates and owners for the purposes of the Act should be done by the Board and that there is no need to have registering officers appointed by the Provincial Governments in this behalf. The relevant rules may be made by the Central Government instead of the Provincial Government. We have accordingly omitted the original clause 11, and provided for the rules regarding registration in revised clause 25, sub-clause (2)(o).

Clause 11.—Although the preamble to the Bill as introduced referred to the regulation of imports and exports of rubber, there was no clause to that effect in the Bill itself. We consider that this omission should be rectified in order to make the Act self-contained, even if powers are available under the Sea Customs Act, 1878, and the recently passed Imports and Exports (Control) Act, 1947. The clause follows the provisions of the latter Act.

Clause 13 (old clause 15).—The clause has been recast so as to provide for fixation of minimum as well as maximum prices. As explained above, we have provided that the Central Government should consult the Price Advisory Committee of the Board and not the Board as a whole.

Clauses 14 and 15 (old clauses 16, 17 and 19).—In addition to the remarks we have made above against clause 8, we may note here that in the proviso to clause 14 we have exempted registered owners of estates from the necessity of obtaining licences for selling, and in sub-clause (4) of clause 15 we have provided that existing dealers and manufacturers should not be refused special licences (where necessary), except for extraordinary reasons to be recorded in writing.

Clauses 16 to 19.—Old clauses 18, 20, 21 and 13 formally amended.

Clause 20.—Old clauses 22 to 25 have been combined and simplified.

Clauses 21 to 25.—Old clauses 26, 30, 31, 32 and 36 with a few formal or consequential amendments.

Clause 26 (old clause 28).—We have suggested a uniform penalty for all offences under the Act.

Clauses 27 and 28.—Old clauses 29 and 35 slightly amended.

Clause 29.—Since there is bound to be a short interval between the commencement of the Act and the constitution of the Board, we have added this clause enabling the Central Government to take any emergent action that may be necessary during that interval.

2. In our view the most important provisions of the Bill are those relating to the scientific development of the industry and unless an adequate organisation designed to this end is expeditiously established the Bill will lose much of its value.

3. The Bill was published in Part V of the *Gazette of India*, dated the 11th January, 1947.

4. We think that the Bill has not been so altered as to require republication, and we recommend that it be passed as now amended.

J. N. MANDAL.
C. RAJAGOPALACHARI.
N. SIVA RAJ.
M. K. JINACHANDRAN.
H. A. S. H. ISHAQ SETH.
P. J. GRIFFITHS.
LESLIE GWILT.

NEW DELHI ;
The 1st April 1947.

L. A. BILL No. 1 OF 1947

(BILL AS AMENDED BY THE SELECT COMMITTEE.)

(Words underlined or side lined indicate the amendments suggested by the committee, asterisks indicate omissions)

A Bill to provide for the development under central control of the rubber industry so far as regards the production and marketing of rubber, and for regulating the export from, and import into, British India of rubber.

WHEREAS it is expedient to provide for the development under central control of the rubber industry so far as regards the production and marketing of rubber, and for regulating the export from, and the import into, British India of rubber;

It is hereby enacted as follows:—

1. (1) This Act may be called the Rubber (Production and Marketing) Act, 1947.

(2) It extends to the whole of British India.

Short title
and extent.

2. It is hereby declared that it is expedient in the public interest that the Central Government should take under its control the development of the rubber industry so far as regards the production and marketing of rubber.

Declaration
as to expedi-
ency of
Central Gov-
ernment's
control.

3. In this Act, unless there is anything repugnant in the subject or context,—

Definitions.

* * * * *

(a) "Board" means the Indian Rubber Board constituted under this Act;

(b) "dealer" means any person who deals in rubber, whether wholesale or retail, or holds stocks of rubber, and includes the representative or agent of a dealer;

(c) "estate" means any area administered as one unit which contains land planted with rubber plants;

(d) "export" and "import" mean respectively taking out of, and bringing into, British India by sea, land or air;

(e) "manufacturer" means any person engaged in the manufacture of any article in the making of which rubber is used;

(f) "owner" includes any agent of an owner and a mortgagee in possession and a lessee of an estate;

(g) "prescribed" means prescribed by rules made under this Act;

(h) "rubber" means—

(i) crude rubber, that is to say, rubber prepared from the leaves, bark or latex of any rubber plant;

(ii) the latex of any rubber plant, whether fluid or coagulated, in any stage of the treatment to which it is subjected during the process of conversion into rubber ;

(iii) latex (dry rubber content) in any state of concentration, and includes scrap rubber, sheet rubber, rubber in powder and all forms and varieties of crepe rubber, but does not include rubber contained in any manufactured article ;

(i) " rubber plant " includes plants, trees, shrubs or vines of any of the following :—

(i) *Hevea Braziliensis* (Para Rubber),

(ii) *Manihot Glaziovii* (Ceara Rubber),

(iii) *Castilloa elastica*,

(iv) *Ficus elastica* (Rambong), and

(v) any other plant which the Board may, by notification in the *Gazette of India*, declare to be a rubber plant for the purposes of this Act ;

(j) " Rubber Production Commissioner " means the Rubber Production Commissioner appointed under this Act.

**Constitution
of the Board.**

4. (1) As soon as may be after the commencement of this Act, the Central Government shall, by notification in the *Official Gazette*, constitute for the purposes of this Act a Board to be called the Indian Rubber Board.

(2) The Board shall be a body corporate by the name of the Indian Rubber Board having perpetual succession and a common seal, with power to acquire and hold property, both movable and immovable, and to contract, and shall by the said name sue and be sued.

(3) The Board shall consist of—

(a) two members representing the Central Government to be nominated by that Government ;

(b) one member representing the Indian Council of Agricultural Research to be nominated by the Central Government ;

(c) one member to be nominated by the Provincial Government of Madras ;

(d) three members to be nominated by the Government of Travancore ;

(e) two members to be nominated by the Government of Cochin, of whom one shall be a person representing rubber producing interests ;

(f) three members to be nominated by the United Planters' Association of Southern India, Cooroor ;

(g) three members to be nominated by the Rubber Growers' Association of India, Kottayam ;

(h) three members to be nominated by the Association of Planters of Travancore, Kottayam ;

(i) three members representing manufacturers, nominated respectively by the Central Government, the Indian Rubber Industries Association, Bombay, and the Association of Rubber Manufacturers in India, Calcutta ;

(j) one member to be nominated by the Central Government from among * dealers ;

(k) the Rubber Production Commissioner, *ex officio*.

(4) The Board shall elect one of its members to be its Chairman and another member to be its Vice-Chairman.

* * * * *

(5) The Chairman and other members of the Board shall receive from the Board such allowances as may be prescribed.

5. (1) If any authority or body fails to make within a reasonable time any nomination which it is entitled to make under section 4, the Central Government may itself nominate a member to fill the vacancy. Vacancies in the Board.

(2) Where a member of the Board dies, resigns or is removed, or ceases to reside in India, or becomes incapable of acting, the Central Government shall, on the recommendation of the authority or body entitled to nominate the member under section 4, or where such recommendation is not made within a reasonable time, then on its own initiative, appoint a person to fill the vacancy.

(3) No act done by the Board shall be questioned on the ground merely of the existence of any vacancy in, or defect in the constitution of, the Board.

6. (1) The Central Government shall, in consultation with the Board, appoint a Rubber Production Commissioner to exercise such powers and perform such duties under the direction of the Board as may be prescribed. Executive Officers of the Board.

(2) The Central Government shall, in consultation with the Board, appoint a Secretary to the Board to exercise such powers and perform such duties under the direction of the Board as may be prescribed or as may be delegated to him by the Rubber Production Commissioner.

(3) The Rubber Production Commissioner and the Secretary shall not undertake any work unconnected with their duties under this Act, except with the permission of the Central Government.

7. (1) The Board shall, for the purposes of section 13, constitute a Committee to be called the Rubber Price Advisory Committee consisting of— Committee of the Board.

(a) four persons to be elected by the Board, of whom two shall be members of the Board representing rubber producing interests and two shall be members representing manufacturers, and

(b) three members of the Board, to be nominated respectively by the Central Government, the Government of Travancore and the Government of Cochin in this behalf, none of whom shall be a member representing rubber producing interests or manufacturers.

(2) The Board may appoint such other Committees as may be necessary for the efficient performance of its duties and functions under this Act.

(3) The Board shall have the power to co-opt as members of any Committee appointed under sub-section (2) such number of persons who are not members of the Board, as it may think fit.

(4) The Board may appoint and authorise agents to discharge on its behalf any of its functions in relation to the marketing or storing of rubber.

Functions of the Board.

8. (1) It shall be the duty of the Board to promote by such measures as it thinks fit the development of the rubber industry so far as regards the production and marketing of rubber.

(2) Without prejudice to the generality of the foregoing provision, the measures referred to therein may provide for—

(a) undertaking, assisting or encouraging scientific technological and economic research ;

(b) training students in improved methods of planting, cultivation, manuring and spraying ;

(c) the supply of technical advice to rubber growers ;

(d) improving the marketing of rubber ;

(e) the collection of statistics from owners of estates, dealers, and manufacturers.

(3) It shall also be the duty of the Board—

(a) to advise the Central Government on all matters relating to the development of the rubber industry, including the import and export of rubber ;

(b) to advise the Central Government with regard to participation in any International Conference or scheme relating to rubber ;

(c) to submit to the Central Government and such other authorities as may be prescribed half-yearly reports on its activities and the working of this Act ;

(d) to prepare and furnish such other reports relating to the rubber industry as may be required by the Central Government from time to time.

Funds of the Board.

9. (1) The Indian Rubber Production Board constituted under the Rubber Control and Production Order, 1946, is hereby dissolved, and all funds and other property vested in, and all liabilities of, that Board shall respectively vest in, and be liabilities of, the Board constituted under this Act.

(2) The funds of the Board shall be kept in such bank, or invested in such manner, as may be proscribed, and shall be expended by the Board, only in the performance of its functions under this Act or for meeting such expenses as are authorised by this Act or by the rules made thereunder.

10. (1) Every person owning land planted with rubber plants, whether such land is comprised in one estate or in more than one estate and whether it is situated wholly or only partly in British India, shall, before the expiry of one month from the date of commencement of this Act, apply * * to the Board to be registered as an owner in respect of each estate owned by him. **Registration.**

(2) A registration once made shall continue in force until it is cancelled by * * * * the Board.

11. (1) The Central Government may, after consulting the Board, by order published in the official Gazette, make provision for prohibiting, restricting or otherwise controlling the import or export of rubber, either generally or in specified classes of cases. **Power to prohibit or control imports and exports of rubber.**

(2) All goods to which any order under sub-section (1) applies shall be deemed to be goods of which the import or export has been prohibited or restricted under section 19 of the Sea Customs Act, 1878, and all the provisions of that Act shall have effect accordingly, except that section 183 thereof shall have effect as if for the word "shall" therein the word "may" were substituted. **VIII of 1878.**

(3) If any person contravenes any order made under sub-section (1) he shall, without prejudice to any confiscation or penalty to which he may be liable under the provisions of the Sea Customs Act, 1878, as applied by sub-section (2), be punishable with imprisonment for a term which may extend to one year or with fine or with both. **VIII of 1878.**

12. (1) With effect from such date as may be notified by the Central Government in this behalf, there shall be levied and collected as a cess for the purposes of this Act a duty of excise on all rubber produced in British India at such rate as the Central Government may on the recommendation of the Board, by the same or a like notification, from time to time fix. **Imposition of rubber cess.**

(2) The said duty of excise shall be payable by the owner of the estate on which the rubber is produced, and shall be paid by him to the Board within one month from the date on which he receives a notice of demand therefor from the Board.

(3) The said duty of excise may be recovered as if it were an arrear of land-revenue.

(4) For the purpose of enabling the Board to assess the amount of the duty of excise payable by the owner of an estate under this section —

(a) the Board shall, by notification in the Gazette of India, fix the period in respect of which assessments shall be made, and

without prejudice to the provisions of section 20, every owner of an estate shall furnish to the Board a return stating the total amount of rubber produced on the estate in each such period, not later than fifteen days after the expiry of the period to which the return relates :

Provided that in respect of an estate situated only partly in British India, the owner shall in the said return show separately the amounts of rubber produced within and outside British India.

(5) If any owner of an estate fails to furnish in due time the return referred to in sub-section (4) or furnishes a return which the Board has reason to believe is incorrect or defective, the Board may assess the amount payable by that owner in such manner as may be prescribed.

(6) Any owner of an estate aggrieved by an assessment made under this section may within three months of the service of the notice under sub-section (2) apply to the District Judge for the cancellation or modification of the assessment, and the District Judge shall, after giving the Board an opportunity of being heard, pass such order (which shall be final) as he thinks proper.

Power to fix maximum and minimum prices for sale of rubber.

13. (1) The Central Government may after consulting the Rubber Price Advisory Committee constituted under sub-section (1) of section 7, by order published in the official Gazette, fix the maximum price or the minimum price or the maximum and minimum prices to be charged, in the course of a business of any class specified in the order, for rubber of any description so specified.

(2) Any such order may fix different maximum or minimum prices to be charged in the course of businesses of different classes for the same description of rubber.

(3) If any person buys or sells, or agrees to buy or sell, rubber at a price which is more than the maximum price, or less than the minimum price, fixed under sub-section (1) in that behalf, he shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

Licensing of transactions in rubber.

14. No person shall sell or otherwise dispose of, and no person shall buy or otherwise acquire, rubber except under and in accordance with the terms of a general or special licence issued by the Board :

Provided that nothing in this section shall apply to the sale by any person of rubber produced in an estate of which he is a registered owner.

15. (1) Every general licence issued under section 14 shall be published by the Board in the Gazette of India and in such newspapers as the Board may direct.

(2) A special licence issued under section 14 shall be valid only for such period as may be specified therein :

Provided that the Board may from time to time extend the period of validity of any such licence.

(3) The Board may at any time for reasons to be recorded by it in writing revoke a special licence granted under section 14, and on such revocation it shall be returned to the Board by the person to whom it was issued.

(4) No application for a special licence made by a person who was carrying on business as a dealer or manufacturer immediately before the commencement of this Act shall be rejected by the Board except for special reasons to be recorded in writing.

16. (1) No person not being the owner or occupant of an estate * * * * or a person who has acquired ¹ a general or special licence issued by the Board under section 14 shall have any rubber in his possession.

(2) Any Court trying a contravention of sub-section (1) may, without prejudice to the provisions of section 26, direct that any rubber in respect of which the Court is satisfied that such contravention has been committed shall be forfeited to His Majesty.

17. (1) No person shall plant or replant rubber except under and in accordance with the conditions of a special licence issued by the Board

(2) A licence issued under this section shall specify the area in which rubber may be planted or replanted and the period for which the licence shall be valid.

(3) No licence issued under this section shall be transferable except with the land to which it relates.

18. (1) Every holder of a licence issued under section 17 shall, at such times as the Board may require, furnish to it a report specifying the areas newly planted or replanted during the period to which the report relates and containing such other particulars as may be required by the Board.

(2) The Board may revoke any licence issued under section 17, if it is satisfied that the licence was obtained by misrepresentation or fraud or if the licensee fails to submit the report referred to in sub-section (1).

Provisions regarding licences under section 14.

Restriction on possession of rubber.

Licences for planting or replanting.

Reports to be submitted by licensees.

Fees for
special
licences.

19. The Board may levy such fees as may be prescribed for the issue and renewal of special licences under section 14, section 15 or section 17

Submission of
returns and
maintenance
of accounts.

20. Subject to such exceptions as may be prescribed, every owner, every manufacturer, and every holder of a special licence issued under section 14 not being an owner or a manufacturer, shall—

(a) submit to the Board such returns at such times, in such form, and containing such particulars, as may be prescribed ;

(b) maintain true and correct accounts and other records pertaining to his estate or business, as the case may be, in such form as may be prescribed ;

(c) permit any officer authorised by the Board in this behalf to inspect the accounts and records referred to in clause (b).

Inspection
of land and
premises.

21. Any officer authorised by the Board in this behalf may at any reasonable time inspect any place of storage of rubber, any estate, any place of business of * * * a dealer or any factory or other premises of a manufacturer, for the purpose of verifying any statement or return submitted under this Act or for any other purpose of this Act.

* * * * *

Control by
the Central
Government.

22 (1) All acts of the Board shall be subject to the control of the Central Government which may cancel, suspend or modify as it thinks fit any action taken by the Board.

(2) The records of the Board shall be open to inspection at all reasonable times by any officer authorised in this behalf by the Central Government.

Appeal.

23 Any person aggrieved by an order of the Board refusing to issue or renew, or revoking, a special licence under the provisions of section 14, section 15 or section 17 may, within sixty days of the making of the order and on payment of the prescribed fee, appeal to the Central Government, and the decision of the Central Government thereon, and subject only to such decision the order of the Board, shall be final and shall not be called in question in any Court.

Accounts of
the Board.

24 (1) The Board shall keep such accounts, in such manner and in such form as may be prescribed, of all moneys received and expended by it

(2) The Board shall cause the accounts to be audited annually by auditors appointed by the Central Government, and the auditors shall have the power to disallow any item of expenditure which in their opinion has not been properly incurred under this Act.

(3) The Central Government may, on the application of the Board, allow any item of expenditure disallowed by the auditors under sub-section (2).

25. (1) The Central Government may, by notification in the official Gazette, make rules to carry out the purposes of this Act

Power of Central Government to make rules.

(2) Without prejudice to the generality of the foregoing power, rules made under this section may provide for all or any of the following matters, namely :—

(a) the procedure to be followed at meetings of the Board ;

(b) the election of the Chairman and Vice-Chairman of the Board, the election of members of the Rubber Price Advisory Committee, the appointment of other Committees and the delegation to Committees or the Chairman or the Vice-Chairman or to members or officers of the Board, of any of the powers and duties of the Board under this Act ;

(c) the staff that may be employed by the Board ;

(d) the pay, allowances, leave and other conditions of service of the Rubber Production Commissioner, Secretary and other officers and servants of the Board ;

(e) the travelling allowance of members of the Board and of Committees ;

(f) the establishment and maintenance of officers by the Board ;

(g) the term of office of members of the Board and the circumstances in which and the authority by which members of the Board or any Committee may be removed ;

(h) the quorum at meetings of the Board ;

(i) the maintenance by the Board of records of business transacted and the submission of copies thereof to the Central Government ;

(j) the purposes for which funds of the Board may be expended ;

(k) the maintenance of accounts of income and expenditure of the Board and the audit of such accounts ;

(l) the preparation of annual estimates of income and expenditure of the Board ;

(m) the deposit of funds of the Board in banks and the investment of such funds ;

(n) the registers, and other records to be maintained by the Board ;

(o) the form of application for registration under section 10 or the cancellation of such registration, the fee payable on such applications, the procedure to be followed in granting or cancelling registration and the registers to be kept by the Board ;

(p) the form of application for special licences under section 14 or section 17, the fees for the grant or renewal of such licences, and the forms of such licences ;

* * * *

(q) the manner in which rubber shall be graded and marketed ;

(r) the fee payable on appeals under section 23,

(s) any other matter which is to be or may be prescribed under this Act.

Penalties.

26. If any person—

(a) contravenes any provision of this Act, other than section 11 or section 13, or any rule made under this Act, or

(b) in any report or return to be furnished under this Act makes any statement which is false and which he knows to be false or does not believe to be true, or

(c) obstructs any officer of the Board in the discharge of any duty imposed on or entrusted to him by or under this Act, or

(d) having the control or custody of any account book or other record, fails to produce such book or record when required by any authorised officer to do so,

he shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

Procedure for prosecutions.

27. No prosecution for any offence punishable under this Act shall be instituted except by or with the consent of the Central Government or the Board.

Bar of legal proceedings.

28. No suit, prosecution or other legal proceedings shall lie against the Board or any officer of the Board for anything in good faith done or intended to be done under this Act.

Temporary powers of the Central Government.

29. Until such time as the Board is constituted under section 4, the Central Government may, notwithstanding anything hereinbefore contained,—

(a) exercise any of the powers conferred by this Act upon the Board ;

(b) exercise any of the powers conferred by sub-section (1) of section 6, section 11 or section 13 on the Central Government without consulting the Board, or as the case may be, the Rubber Price Advisory Committee.

The following Report of the Select Committee on the Bill to provide for the control of shipping was presented to the Legislative Assembly on the 1st April, 1947:—

We, the undersigned, members of the Select Committee to which the Bill to provide for the control of shipping was referred, have considered the Bill, and have now the honour to submit this our Report, with the Bill as amended by us annexed thereto.

Clause 1 (3).—As we assume that further legislation in regard to shipping will be necessary after consideration by Government of the report of the Reconstruction Policy Sub-Committee on Shipping, we consider that it will suffice to give this Bill a life of one year only in the first instance, with power to Government to extend it for one year more if circumstances so require. We also amend the commencement provision to secure continuity of control after the expiry of the Ordinance referred to in clause 3 (6) of the Bill.

Clauses 2 and 7.—Our amendments are formal and consequential.

Clause 5 (1) (a).—We propose a clarifying insertion.

Clauses 6 and 9.—We are of opinion that in the matter of fixing shipping rates, Government should constitute a Board representative of all interests concerned to advise them, and with this object in view we make insertions in those two clauses.

Clause 8 (5).—The ordinary director of a company is not normally in close touch with, or responsible for, the day to day working of the concern, and for this reason we think that he should not be included among those liable for offences committed by his company. We therefore replace the word "director" by "managing director".

2. The Bill was published in part V of the Gazette of India, dated the 22nd March, 1947.

3. We think that the Bill has not been so altered as to require republication, and we recommend that it be passed as now amended.

JOGENDRA NATH MANDAL
ISMAIL J. CHUNDRIGAR
N. V. GADGIL
T. V. SATAKOPACHARI
THAKUR DAS BHARGAVA
M. A. F. HIRTZEL
*AHMED E. H. JAFFER
*TAMIZUDDIN KHAN
P. G. SOLANKI
R. VENKATASUBBA REDDIAR

NEW DELHI ;

The 1st April, 1947.

MINUTE OF DISSENT

It is a notorious fact that fares for pilgrims to the Hedjaj are being inordinately raised almost every year. This requires an early remedy. Government should be given adequate powers to regulate such fares. We think clause 5 of the Bill gives such power to Government in respect of ships registered in India but no such powers are given in respect of ships registered elsewhere which may carry passengers from Indian ports to ports abroad. We are of opinion that clause 5 should be appropriately amended to give such powers to Government.

NEW DELHI ;
The 1st April, 1947.

TAMIZUDDIN KHAN
AHMED E. H. JAFFER

L. A. BILL No. 31 OF 1947

[BILL AS AMENDED BY THE SELECT COMMITTEE]

A Bill to provide for the control of shipping

WHEREAS it is expedient to provide for the control of shipping for a limited period ;

It is hereby enacted as follows :—

Short title, extent,
commencement
and duration.

1. (1) This Act may be called the Control of Shipping Act, 1947.

(2) It extends to the whole of British India, and applies also to, and to persons on, ships registered in British India, wherever they may be.

(3) It shall be deemed to have come into force on the 25th day of March 1947, and it shall remain in force only up to the 31st day of March 1948 :

Provided that the Central Government may, by notification in the official Gazette, direct that it shall remain in force for a further period not exceeding one year.

Interpretation.

2. In this Act, unless there is anything repugnant in the subject or context,—

XXI of 1923.

(a) “master” and “passenger” have the meanings respectively assigned to them in the Indian Merchant Shipping Act, 1923 ;

(b) “owner” includes the agent of an owner ;

(c) “prescribed” means prescribed by rules made under section 9 ;

(d) “ship” does not include a ship of less than 150 gross registered tons or a sailing ship ;

(e) “Shipping Authority” means any authority or officer authorised by the Central Government by notification in the official Gazette to perform the functions of a Shipping Authority under this Act.

Licences.

3. (1) No ship registered in British India shall be taken to sea from a port or place within or outside British India except under a valid licence granted by a Shipping Authority under this section.

(2) A licence granted under this section may be either a general licence or a specified voyage licence.

(3) A general licence shall remain valid until it is revoked by the Shipping Authority which granted it, and a specified voyage licence shall be valid only for the particular voyage for which it is granted.

(4) A licence granted under this section may contain such limitations and conditions as the Shipping Authority granting it may think fit to impose with respect to the trades in which the ship may engage and the voyages which it may undertake, and such limitations and conditions may be imposed so as to apply to the ship wherever it may be, or while in such waters or engaged in such trades or on such voyages, as may be specified.

(5) When a licence ceases to be valid, the person to whom it was granted shall, without unreasonable delay, return it or cause it to be returned to the Shipping Authority which granted it.

(6) For the avoidance of doubts it is hereby declared that any licence granted under an order made under rule 65 of the Defence of India Rules or that rule as continued in force by the Emergency Provisions (Continuance) Ordinance, 1946, and valid immediately **XX of 1946.** before the expiry of the said Ordinance shall continue to be valid according to its tenor and shall be deemed to have been granted under this section.

4. Without prejudice to the provisions of section 127 of the Indian Merchant Shipping Act, 1923, no officer of Customs shall grant a port-clearance to a ship registered in British India until after the production by the owner or master thereof of a valid licence granted under this Act in respect of the ship. **No port-clearance until licence is produced. XXI of 1923.**

5. (1) The Shipping Authority which granted a licence in respect of a ship under section 3 may, from time to time while the licence is valid, by order in writing give directions with respect to— **Power to give directions.**

(a) the ports or places, whether within or outside British India, to which, and the routes by which, the ship shall proceed for any particular purpose ;

(b) the classes of passengers or cargo which may be carried in the ship ;

(c) the order of priority in which passengers or cargo may be taken on or put off the ship at any port or place, whether within or outside British India.

(2) The Central Government or any Shipping Authority may from time to time by order in writing give general or special directions applicable to any ship registered outside British India and about to proceed from a port or place in British India to any port or place in the continent of India with respect to the order of priority in which passengers or cargo may be taken on the ship at such port or place in British India :

Provided that no directions under this sub-section shall apply to any such ship which is not taking on passengers or cargo at a port or place in British India for discharge at any port or place in the continent of India.

6. The Central Government may from time to time, by order published in the official Gazette, fix in the prescribed manner the rates at which any ship, registered in British India may be hired, and the rates which may be charged for the carriage of passengers or cargo taken on any ship, whether registered in British India or not, at a port or place in British India for discharge at any port or place in the continent of India. **Power to fix shipping rates.**

Power to call for information.

7. A Shipping Authority may, by notice served by post, require—

(a) the master or owner of any ship in respect of which a licence granted by the Shipping Authority under this Act is in force, or

(b) the master or the agent in British India of the owner of any ship in respect of which any directions have been or may be given under sub-section (2) of section 5,—

to furnish, within the period specified in the notice, information regarding any of the following matters, namely:—

(i) the classes of passengers and cargo which the ship is about to carry or is capable of carrying;

(ii) the rates of passenger fares and freight charges applicable to the ship;

(iii) any other matter which may be prescribed.

* * * * *

Penalties and procedure.

8. (1) If the provisions of sub-section (1) of section 3 or of an order under section 6 or, without reasonable excuse, any limitations or conditions contained in a licence granted under this Act or any directions given under section 5, are contravened, the master and the owner (or in the case of a ship registered outside British India, the agent in British India of the owner) of the ship in respect of which the contravention has taken place shall each be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

(2) If any person on whom a notice has been served under section 7 fails to furnish the information required within the specified time or, in furnishing such information, makes any statement which he knows to be false in any material particular, he shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

(3) If any licence is not returned to the Shipping Authority which granted it within a reasonable period after it has ceased to be valid, the person to whom it was granted shall be punishable with fine which may extend to one hundred rupees.

(4) No Court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence punishable under this section.

(5) If the person committing an offence punishable under this section is a company or other body corporate, every managing director, manager, secretary or other officer or agent thereof shall, unless he proves that he exercised all due diligence to prevent the commission of the offence, be deemed to be guilty of such offence.

Power to make rules.

9. (1) The Central Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for any of the following matters, namely:—

(a) the forms of licences granted under this Act;

(b) the manner in which rates shall be fixed under section 6, including the constitution and functions of a Board to advise the Central Government in respect of such rates;

(c) the matters regarding which information may be required to be furnished under section 7.

The following Report of the Select Committee on the Bill to provide for the continuance of control over issues of capital, was presented to the Legislative Assembly on the 7th April, 1947:—

We, the undersigned members of the Select Committee to which the Bill to provide for the continuance of control over issues of capital was referred, have considered the Bill and have now the honour to submit this our Report, with the Bill as amended by us annexed thereto.

Clause 1, sub-clause (3).—We consider five years to be too long a period for continuance of control over capital issues and have reduced it to three years.

Clause 3.—Although we understand that in practice the Government's reasons for refusing consent or recognition to an issue of capital are communicated to the applicant, we consider it desirable to impose a statutory obligation in this respect as in sub-clause (5), which we have added to this clause.

Clause 11.—In this clause, which is new, we have proposed that the Central Government should constitute an Advisory Committee consisting of not more than five members to advise Government as regards the administration of the Act.

Clause 13.—The maximum penalty of imprisonment for two years appears to us to be unduly heavy and we have reduced it to one year.

Clause 16.—This formal re-draft of old clause 15 is necessitated by the promulgation of the Capital Issues (Continuance of Control) Ordinance 1947 (No. V of 1947) which came into force on the 25th March 1947, and will expire as soon as this Bill becomes law.

2. The Bill was published in Part V of the *Gazette of India*, dated the 22nd March, 1947.

3. We think that the Bill has not been so altered as to require republication and we recommend that it be passed as now amended.

J. N. MANDAL

LIAQUAT ALI KHAN

MOHAMMAD YAMIN KHAN

GEOFFREY W. TYSON

N. V. GADGIL

M. ANANTHASAYANAM AYYANGAR

*THAKUR DAS BHARGAVA

NEW DELHI ;

The 7th April, 1947.

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MINUTE OF DISSENT

I regret I cannot reconcile myself to the proposition that State subjects should not be allowed to purchase shares of companies of British India and *vice versa* unless consent or recognition for the particular purpose is accorded by the Central Government. This sort of discrimination between State and British India people is undesirable and will not be in the interest of future industrialisation of India as a whole. I can understand that in the interests of well-balanced investments in industries Government may keep powers to itself to give consent for issue of capital. In my humble opinion this circumstance does not necessitate the embargo on the flow of capital from States to British India and *vice versa*.

I am further not convinced that there should not be different punishments for different offences and there should be a uniform punishment for all offences whether major or minor.

I also consider that the law should not cast its net too wide and try to rope in persons who may have nothing to do with particular offences enumerated in the Bill without proving any act or omission on their part.

The placing of burden on the accused without any overriding necessity or justification for such a course is also against the sound principles of jurisprudence.

Moreover the provision relating to immunity of public servants is quite unnecessary as the protection by ordinary law of the land is enough and no case has been made out for greater protection.

THAKUR DAS BHARGAVA.

NEW DELHI ;

The 7th April, 1947.

L. A. BILL No. 82 OF 1947

(BILL AS AMENDED BY THE SELECT COMMITTEE).

(Words sidlined or underlined indicate the amendments suggested by the Committee.)

A Bill to provide for the continuance of control over issues of capital.

WHEREAS it is expedient to provide for the continuance of control over issues of capital;

It is hereby enacted as follows :—

Short title, extent and duration

1. (1) This Act may be called the Capital Issues (Continuance of Control) Act, 1947.

(2) It extends to the whole of British India, and applies also to British subjects and servants of the Crown in any part of India and to British subjects who are domiciled in any part of India wherever they may be.

(3) It shall cease to have effect on the first day of April, 1950.

Definitions

2. In this Act,—

(a) "issue of capital" means the issuing of any securities whether for cash or otherwise ;

(b) "securities" means any of the following instruments issued, or to be issued, by or for the benefit of a company, whether incorporated in British India or not, namely :—

(i) shares, stocks and bonds ;

(ii) debentures ;

(iii) other instruments creating a charge or lien on the assets of the company ; and

(iv) instruments acknowledging loan to or indebtedness of the company and guaranteed by a third party or entered into jointly with a third party.

3. (1) No company incorporated in British India shall, **Control over issues of capital** except with the consent of the Central Government, make an issue of capital outside British India.

(2) No company, whether incorporated in British India or not, shall except with the consent of the Central Government,—

(a) make an issue of capital in British India ;

(b) make in British India any public offer of securities for sale ;

(c) renew or postpone the date of maturity or repayment of any security maturing for payment in British India.

(3) The Central Government may on application make an order according recognition to an issue of capital made or to be made outside British India by a company not incorporated in British India.

(4) The Central Government may qualify any consent or recognition accorded by it under sub-section (2) or sub-section (3) with such conditions, whether for immediate or future fulfilment, as it may think fit to impose ; and where a company acts in pursuance of such consent or recognition, it shall comply with the terms of any condition so imposed.

(5) Where an application for the consent or recognition of the Central Government under any of the provisions of this section is refused, the Central Government shall, upon the request of the applicant, communicate to him in writing the reasons for such refusal.

4. No person shall issue in British India any prospectus or other document offering for subscription or publicly offering for sale any securities which does not include a statement that the consent or recognition, as the case may be, of the Central Government has been obtained to the issue or offer of the securities, and no person shall without the consent of the Central Government issue in British India any document publicly offering for sale any security issued with the consent or recognition of the Central Government if such issue was made by a private company or if the order according its consent or recognition contained a condition that the securities should be privately subscribed. **Control over prospectuses and other advertisements**

5. (1) No person shall accept or give any consideration for any securities in respect of an issue of capital made or proposed to be made in British India or elsewhere unless the consent or recognition of the Central Government has been accorded to such issue of capital. **Purchase and sale of securities**

(2) No person shall sell or purchase or otherwise transfer or accept transfer of any securities issued by a company in respect of any issue of capital made after the 17th day of May 1943 in British India or elsewhere unless such issue has been made with the consent or recognition of the Central Government.

6. (1) The Central Government may, by general order which shall be notified in the official Gazette, provide for the granting of exemption from all or any of the provisions of sections 3, 4 and 5. **Power to exempt and to condone contraventions**

(2) The Central Government may by order condone a contravention of any of the provisions of section 3 or section 4, and on the making of such order the provisions of this Act, shall have effect as if an exemption had been granted under sub-section (1) of this section in respect of the thing done or omitted to be done in contravention of section 3 or section 4, as the case may be.

Power to call for information

7. Any officer authorised in this behalf by the Central Government may, for the purpose of enquiring into the correctness of any statement made in an application for consent or recognition to an issue of capital or for the purpose of ascertaining whether or not the requirements of any condition attached to an order according such consent or recognition have been complied with, require any company, or any officer of a company, which has made such application or obtained such order to submit to him such accounts, books, or other documents, or to furnish to him such information, as he may reasonably think necessary.

False statements.

8. No person shall, when complying with any requisition under section 7 or when making any application for consent or recognition to an issue of capital, give any information or make any statement which he knows, or has reasonable cause to believe, to be false or not true in any material particular.

Prohibition against disclosing information.

9. No person who obtains any information by virtue of this Act shall, otherwise than in connection with the execution of the provisions of this Act or of any order made in pursuance thereof, disclose that information to any other person except with the permission of the Central Government.

Power to delegate function.

10. The Central Government may by order direct that any power or duty which by or under any of the preceding provisions of this Act is conferred or imposed upon the Central Government shall, in such circumstances and under such conditions, if any, as may be specified in the direction, be exercised or discharged by any officer subordinate to that Government.

Committee to advise Government.

11. The Central Government shall, by notification in the official Gazette, constitute an Advisory Committee consisting of not more than five members, and may from time to time refer to it for advice any such matters arising out of the administration of this Act as the Central Government may think fit.

Power to make rules.

12. The Central Government may by notification in the official Gazette make rules for carrying out the purposes of this Act.

Penalties.

13. (1) Whoever contravenes, or attempts to contravene, any of the provisions of this Act or of any order made thereunder shall be punishable with imprisonment for a term which may extend to one year or with fine or with both.

(2) If the person committing an offence punishable under this section is a company or other body corporate, every director, manager, secretary or other officer thereof shall, unless he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent its commission, be deemed to be guilty of such offence.

14. Where any person is prosecuted for contravening any provision of this Act or of any order made thereunder which prohibits him from doing an act without the consent or permission of any authority the burden of proving that he had the requisite consent or permission shall be on him. Burden of proof in certain cases.

15. No suit, prosecution or other legal proceedings shall lie against any person for anything in good faith done or intended to be done under this Act or any rule or order made thereunder. Protection of action taken under Act.

16. (1) All orders made or deemed to be made under the provisions of the Capital Issues (Continuance of Control) Ordinance, 1947, and in force immediately before the commencement of this Act shall continue to be in force and be deemed to be orders made under the corresponding provisions of this Act. Continuance of existing orders and savings. V of 1947.

(2) Section 6 of the General Clauses Act, 1897, shall apply upon the expiration of the said Ordinance as if it had then been repealed by this Act. X of 1897.

The following Bill was introduced in the Legislative Assembly on the 9th April, 1947:—

L. A. BILL NO. 41 OF 1947

A Bill to control the export of antiquities

WHEREAS it is expedient to make better provision for controlling the export of objects of antiquarian or historical interest or significance ;

It is hereby enacted as follows :—

1. **Short title and extent.**—(1) This Act may be called the Antiquities (Export Control) Act, 1947.

(2) It extends to the whole of British India.

2. **Interpretation.**—In this Act, unless there is anything repugnant in the subject or context,—

(a) “antiquity” includes—

(i) any coin, sculpture, manuscript, epigraph, or other work of art or craftsmanship,

(ii) any article, object or thing detached from a building or cave,

(iii) any article, object or thing illustrative of science, art, crafts, literature, religion, customs, morals or politics in bygone ages,

(iv) any article, object or thing declared by the Central Government by notification in the official Gazette to be an antiquity for the purposes of this Act,—

which has been in existence for not less than one hundred years ;

(b) “export” means export from British India by sea, land or air.

3. **Prohibition of export.**—No person shall export any antiquity except under the authority of a licence granted by the Central Government.

4. Application of Act VIII of 1878.—All antiquities the export of which is prohibited under section 3 shall be deemed to be goods of which the export has been prohibited under section 19 of the Sea Customs Act, 1878, and all the provisions of that Act shall have effect accordingly, except that, the provisions of section 183 of that Act notwithstanding, any confiscation authorised under that Act shall be made, unless the Central Government, on application to it in such behalf, otherwise directs.

5. Penalty and procedure.—(1) If any person exports or attempts to export an antiquity in contravention of section 3, he shall, without prejudice to any confiscation or penalty to which he may be liable under the provisions of the Sea Customs Act, 1878 (VIII of 1878) as applied by section 4, be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to five thousand rupees, or with both.

(2) No Court shall take cognizance of an offence punishable under this section except upon complaint in writing made by an officer generally or specially authorised in this behalf by the Central Government, and no Court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any such offence.

6. Power to determine whether or not an article is an antiquity.—If any question arises whether any article, object or thing is or is not an antiquity for the purposes of this Act, it shall be referred to the Director General of Archaeology in India, and his decision thereon shall be final.

7. Power to make rules.—(1) The Central Government may, by notification in the official Gazette, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may prescribe the procedure for granting licences for the export of antiquities, and fix the fees payable on applications therefor.

8. Protection of action taken under this Act.—No suit, prosecution or other legal proceeding shall lie against any person for anything in good faith done or intended to be done under this Act.

9. Application of other laws not barred.—The provisions of this Act shall be in addition to, and not in derogation of, the provisions of the Ancient Monuments Preservation Act, 1904 (VII of 1904) or any other law for the time being in force.

STATEMENT OF OBJECTS AND REASONS.

As there has been in the past a flow of valuable objects of antiquarian or historical interest from this country, it is necessary to take adequate steps by way of legislation to control the export of such articles. The present Bill is intended to achieve this object.

NEW DELHI;

The 3rd April, 1947.

A. K. AZAD

M. N. KAUL,
Secy. to the Govt. of India.